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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

January 10, 2001

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Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th St., SW
Washington, D.C. 20554

Re: CC Docket No. 96-128 (remand of inmate service issues)

Dear Ms. Salas:

On behalf of the Inmate Calling Service Providers Coalition ("ICSPC"), we submit this response to CURE's December 18, 2000 letter to Adam Candeub of the Common Carrier Bureau's Competitive Pricing Division.

CURE takes issue with ICSPC's estimates of the cost of a 12-minute local collect call. CURE states that "cost data in a non-competitive environment is inherently suspect according to fundamental principles of economics because there are no competitive pressures to drive these supposed costs down to actual costs." First, while ICSPC agrees that there are important non-competitive aspects to the provision of inmate services, the fact remains that providers (other than incumbent local exchange carriers) competing for a contract to serve a correctional facility are subject to substantial competitive pressures, which force them to minimize their costs where feasible. Further, in states with local call rate ceilings, providers face even greater pressure to minimize their costs.

CURE also states that ICSPC's cost estimates are suspect because the "Commission of 30 percent and the unbillables/uncollectibles of 19 percent are taken from the total rather than the total costs figure." ICSPC expressed Commissions and unbillables/uncollectibles as a percentage of total billed revenue¹ because that is the way commissions and unbillables/uncollectibles are normally expressed in the inmate services industry.

CURE also objects to the inclusion of profit (i.e., return on investment) in ICSPC's costs. The return included represents ICSPC's estimate of returns needed for inmate

¹ "Billed" revenue is the amount that a service provider sends to a local exchange carrier for billing. Commissions are typically paid out of billed revenue, even though not all billed revenue is collected. "Unbillables" are the portion of "billed" revenue that is not actually billed by the local exchange carrier. "Uncollectables" are the portion of billed revenue that is billed but not collected.

service providers to be financially viable over the long term in the inmate services industry. Without offering a reasonable return on investment, companies will not be able to raise the capital necessary for long term viability.

For these reasons, CURE's proposed adjustments to ICSPC's estimated aggregate costs are not valid.

CURE also contends that the fact that providers are profitable in some states negates the need for federal intervention to ensure fair compensation in other states. If providers cannot operate profitably in particular states, they will not continue to serve those states over the long term. The fact that the same or different providers may be able to recover their costs in other states will not prevent the negative effects on availability of service in states where costs cannot be recovered.

CURE also states it has not heard of any prisons or jails in low rate ceiling states being unable to provide inmate payphone services for lack of vendors in low rate ceiling states. An example of a jail facing such a dilemma is provided in the attached letter to Chairman Kennard from Sheriff Connie R. Watson of Surry County, North Carolina. In states such as North Carolina and Tennessee, those service providers that have been trying to keep their long distance rates relatively low have had no choice but to raise their long distance rates substantially.

CURE cites the disparity in local call rates from state to state, and argues that "prisons and providers in the higher-rate states should take immediate steps to decrease their rates to the levels of the low-rate states." ICSPC supports correctional industry initiatives to reduce rates that are unnecessarily high. However, as ICSPC's cost estimates clearly illustrate, it is *not* possible for providers serving city and county facilities to operate profitably at a rate of \$.85 per local call.

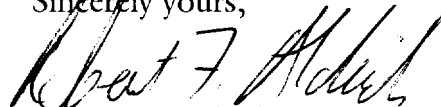
CURE contends that the overall solution to the problem of excessive rates is to "limit rates at all levels and introduce competition to the market" As to rates, ICSPC does not dispute that deregulation has been a significant factor in increasing long distance rates, and does not oppose reasonable regulation of rates. ICSPC's proposal in this proceeding would apply a cost-based maximum to a provider's rates for *all* types of calls.

However, CURE's adamant opposition to increasing local rates in the states where local rate ceilings are far below costs is short sighted. There is no way around the fact that if a provider is compelled to charge below-cost rates on local calls, the provider must charge above cost rates on interLATA calls if the provider is to recover all its costs. Conversely, a provider that is permitted to charge cost-based rates for local calls can charge substantially lower rates for interLATA long distance calls. An example of this fact is attached to this letter. ²

² The attached analysis of average revenues in North Carolina, South Carolina, and Tennessee assumes that a provider's call distribution is typical of county jails in those states,

As for introducing competitive choice, ICSPC supports providing inmates with a choice of additional calling methods such as debit systems wherever feasible. However, it is not possible to provide inmates a choice of *carriers* as a means of reducing costs, due to the major security and fraud issues involved.³ ICSPC's views in this area are explained in the attached paper.

Sincerely yours,



Robert F. Aldrich

RFA/klw

Attachments

cc: Ms. Dorothy Attwood
Ms. Jane Jackson
Ms. Tamara Preiss
Mr. Jay Atkinson
Mr. Adam Candeub

and that a provider charges the highest amounts permitted for local, intraLATA, and intrastate interLATA calls in those states. Interstate rates are assumed to be equivalent to AT&T's tariffed rate. Based on the average cost data submitted by ICSPC, the analysis shows that, even charging the highest rates permitted for intrastate long distance calls, a provider cannot recover all its costs in these states. The analysis also shows that a provider that is permitted to charge cost-based rates can charge substantially lower rates for interLATA long distance calls.

³ Recognizing these major security and fraud issues, the North Carolina General Assembly did not enact the proposed legislation, House Bill 1844, attached to CURE's ex parte letter.



CONNIE R. WATSON SHERIFF OF SURRY COUNTY

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DOBSON, NORTH CAROLINA 27017

PHONE 401-8900
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Honorable William E. Kennard, Chairman
Federal Communications Commission
445 Twelfth Street, S.W. Suite 8-B201

RE: CC Docket No. 96-128

Dear Chairman Kennard:

As Sheriff of Surry County, Dobson, NC, I am responsible for the operation of Surry County Detention Center housing 80 inmates. I am concerned about the long term availability of the inmate telephone service that is currently provided to my jail. Over 75% of our jail calls are local calls. The rate for these calls is set by the State at a very low rate. With a low rate on the majority of our calls and the increasing costs of operating an inmate phone system, I am concerned about losing my inmate phone service.

My concerns are based on:

- ... The local telephone company will not provide the service
- ... The local telephone company can not provide the service we need
- ... None of the major carriers, AT&T, MCI or Sprint have been willing to serve our jail
- ... Today there are only one or two companies that provide phone service versus several companies 4 years ago.

If we lose our current inmate phone service and have to allow inmates to use office phones we will need additional staff which we can not afford. Because of the security concerns when taking inmates out of a cell to use the phone, we would have to limit inmates to only 1(one) call per month.

I understand there is a proceeding (CC Docket No. 96-128) before the FCC to address the Congressional mandate to make sure inmate phone service providers are "fairly compensated". Please see that the problem of below cost intra-state rates is corrected so we can continue to provide our inmates with unrestricted calling privileges.

Sincerely, *Connie R. Watson*

Sheriff

**Cc: Congressman Richard Burr
Senator Jesse Helms
Senator John Edwards
American Public Communications Council**

NC, SC & TN COUNTY JAIL INMATE CALLS AND CURRENT REVENUES

<u>CALL TYPE</u>	<u>% OF CALLS</u>	<u>NUMBER OF CALLS</u>	<u>PER CALL REVENUE</u>	<u>TOTAL REVENUE</u>	<u>% OF REVENUE</u>
Local	81%	218	X \$1.02	\$222.36	43% Local
Intra-lata	9%	24	X \$3.29	\$78.96 }	
Inter-lata	5%	13	X \$4.82	\$62.66 } = \$300.61	57% Long Distance
Inter-lata/Inter-state	5%	13	X \$12.23	<u>\$158.99 }</u>	
				\$522.97	

PROPOSED REVENUES BASED ON COST-BASED RATE PROPOSAL

<u>CALL TYPE</u>	<u>% OF CALLS</u>	<u>NUMBER OF CALLS</u>	<u>PER CALL REVENUE</u>	<u>TOTAL REVENUE</u>	<u>% OF REVENUE</u>
Local	81%	218	X \$2.18	\$475.24	68% Local
Intra-lata	9%	24	X \$3.99	\$95.76 }	
Inter-lata	5%	13	X \$3.99	\$51.87 } = \$222.90	32% Long Distance
Inter-lata/Inter-state	5%	13	X \$5.79	<u>\$75.27 }</u>	
				\$698.14	

INCREASED REVENUE: \$175.17

NC, SC & TN COUNTY JAIL INMATE CALLING SERVICE PROFITABILITY ANALYSIS

	<u>CALL %</u>	<u>CALLS</u>	<u>PRICE</u> <u>12 MIN</u>		<u>COST</u> <u>12 MIN</u>		<u>MARGIN</u> <u>CALL</u>		<u>MARGIN/</u> <u>TYPE</u>
LOCAL	81%	218	\$ 1.02	¹	\$ 2.18	⁵	\$(1.16)		(252.88)
INTRA-LATA	9%	24	\$ 3.29	²	\$ 3.99	⁵	\$(0.70)		(16.80)
INTER-LATA	5%	13	\$ 4.82	³	\$ 3.99	⁵	\$ 0.83		10.79
INTERSTATE	5%	<u>13</u>	\$ 12.23	⁴	\$ 5.79	⁶	\$ 6.44		<u>83.72</u>
		268					\$		(175.17)

To make up the deficit of \$175.17 on overall call traffic, the cost of the Interstate call must be increased by \$13.47 to \$25.70 (\$175.17 / 13 calls = \$13.47)

Footnotes:

- 1) Average of state local call rate caps: NC \$1.15, SC \$1.05, TN \$0.85
- 2) Average of state intra-LATA call rate caps for a 12-minute inmate call: NC \$3.25, SC \$4.47, TN \$2.15
- 3) Average of state inter-LATA call rate caps for a 12-minute inmate call: NC \$4.21, SC \$6.72, TN \$3.54
- 4) Price based on AT&T-tariffed Interstate inmate collect call rate
- 5) Costs based on averages of NC, SC & TN "bottoms-up" cost analyses using a 30% commission rate and 19% unbillables/uncollectibles
- 6) Interstate costs based on average of NC, SC & TN "bottoms-up" cost analysis using a 40% commission and 19% unbillables/uncollectibles

EVALUATION OF PROPOSED ALTERNATIVE APPROACHES TO THE PROVISION OF INMATE TELEPHONE SERVICE

Prepared By The Inmate Calling Service Providers Task Force

July 2000

Recently, a number of proposals have been made for alternative approaches to the provision of telephone service to inmates of confinement facilities. For example, it has been suggested that, in order to limit billing and collection expenses and unbillables/uncollectables, a facility could offer a prepaid, or debit-based, calling service rather than the collect calling service traditionally offered. It has also been suggested that facilities could offer inmates a choice of carriers, creating a cost reduction incentive as carriers compete for inmates' business. This paper analyzes and evaluates these alternatives.

The Coalition supports the provision of service on a prepaid, or debit, basis as an option where feasible and cost-effective. Such an approach can result in lower call rates in prison facilities where the duration of stay is long enough to make a debit program cost-effective. A simplified debit program using pre-paid cards may sometimes be an option in large jail facilities where staff is available to administer the program. However, at this time debit programs are generally not feasible for small and medium-sized jail facilities.

Offering inmates carrier choice, on the other hand, is generally not feasible for either prisons or jails, due to the numerous intractable security and fraud problems that would result. In the Coalition's view, rates can be effectively limited through other means, such as cost-based rate regulation or rate-based evaluation of competitive bids, which do not threaten the fundamental security needs of the facility.

Debit Systems

As an approach to reducing the costs of inmate telephone service, some confinement facilities have explored the use of a debit system. Such systems can achieve cost savings under some circumstances in large prison facilities, where the duration of confinement is relatively long. However, such systems are of only limited usefulness for jail facilities, where the duration of confinement is relatively short.

Typical Operation of a Debit Program. First, the inmate is assigned a personal identification number ("PIN"). Then, an account established and funded (either by the inmate or a family member) and associated with the PIN. The account may be part of an existing trust-account or commissary program or may be established on a stand-alone basis. The inmate submits a list of names, addresses and phone numbers of parties the inmate wishes to call. That information is verified, and each telephone number is called by the

program administrator to ensure that the party subscribing to that number is willing to receive the inmate's calls.

Debit systems are attractive from a billing perspective because calls are completed with the certainty of payment. Thus, there are virtually no uncollectables or bad debt. Also, since calls are not billed through local exchange carriers or clearinghouses, there is no post-payment billing and collection expense. Ongoing LIDB validation costs may also be largely avoided.

On the other hand, there are significant costs involved in the additional equipment and personnel required to administer debit calling programs. To have a comprehensive debit calling program, it is necessary for facility personnel to be assigned to the administration of the program. In light of the major up-front costs involved in setting up the program and in establishing individual user accounts, debit programs are more cost effective in large facilities where there are economies of scale and in long-duration (i.e. prison) facilities where there is less "churn" in the inmate population. The rate of a debit call must cover the costs associated with setting up new accounts with personal identification numbers ("PINs"), verifying pre-approved calling lists, processing inmate funds associated with the debit account and making ongoing changes to pre-approved calling lists. In addition, all of the costs of maintaining security measures would have to be covered in the cost of a debit call.

There are other concerns. With inmate debit programs, a "commodity" is created. Debit programs are dependent on the creation of a PIN or account number that is exclusive to each inmate or account. This number has an inherent value in that the number is worth a certain number of phone calls. This number becomes a commodity that can and has become a source of disruption in the inmate environment. The PIN or account number in effect can become "contraband" that can be traded among, stolen from, and taken by force from inmates.

Successful Use of A Debit Program. The Federal Bureau of Prisons has been at least partially successful in implementing a debit program. The Bureau has been willing to employ a large in-house staff and create an entire Inmate Telephone Systems Department. This department employs several dozen administrators, and is projected to employ several hundred administrators once the system is fully implemented at all federal prisons.

Disadvantages of Debit Programs in the Jail Environment. For facilities with fewer administrative resources – such as county jails – a debit system is not likely to be practical. Most such facilities have very limited budgets and administrative staff. Most lack the capability to add the resources necessary to administer a debit program. The administrative costs for jails are compounded because debit programs are normally administered most efficiently in conjunction with a facility's commissary and/or trust account program, as this is where an inmate's funds are normally held. Under this approach, funds held for an inmate would be available to place debit calls. Most county jail

facilities do not currently have trust or commissary programs capable of interfacing with inmate phones. It would be impractical to require these facilities to acquire, implement, and staff debit programs.

An additional obstacle to implementing debit programs at the city or county jail level has to do with the average duration of confinement. The average stay of an inmate in a jail facility is less than thirty days, compared to months or years in state and Federal prisons. A substantial investment of time and money is required to assign PINs to an inmate, create an approved calling list and maintain an inmate's account. Given the relatively high per-inmate costs involved, the administrative costs are higher for jail facilities due to the much shorter average duration of confinement. Today the overwhelming majority of county jails do not assign PINs to inmates for the purpose of placing phone calls.

Alternative Debit Programs in the Jail Environment.

Because of the problems identified above, simplified debit programs using pre-paid cards may be an option in jails where officers are available to sell the cards. It is critical for security purposes that pre-paid cards be restricted to cards provided by the inmate phone service provider. The pre-paid calling card must interface with the existing inmate phone service equipment to guarantee security features, call controls, etc... are not circumvented.

Transitional Issues. In those areas where debit programs are feasible, successful implementation cannot always occur quickly. A great deal of the call processing equipment used by providers today would require either expensive upgrades or replacement in order to be capable of implementing a debit program. A debit calling system inherently requires an "administration terminal" to be placed on-site for facility staff to enter debit account information. Facilities normally want the inmate phone system to be "transparent" to daily operations. The addition of the required administration terminal and related duties can present a challenge to the facility. This additional equipment must be capable of rating calls on-site, providing inmate balances in a "real-time" manner, and cutting off calls once the debit balance is exhausted. As a practical matter, to implement inmate debit calling on a wide scale may require several years and hundreds of millions of dollars in new equipment and staffing.

In addition to upgrading call processing equipment, it is also necessary to ensure compatibility with a facility's commissary or trust account system. As mentioned above, implementation of a debit system would require these facilities to purchase and implement a system dedicated to telephone service. There are a large variety of commissary and trust accounting systems available today. This presents a challenge to inmate phone service providers, in that a different "interface" must be designed for each different system. It is an

economic and practical impossibility for a provider to be able to interface with all systems. In addition, some larger facilities have accounting systems that were written “in-house”. Writing computer programs to interface with these systems can be difficult at best.

Despite these obstacles, new Requests for Proposals (“RFPs”) issued by many state governments reflect an increasing awareness by facility administrators of the value of debit systems in reducing the rates for inmate calls in state prisons. The market appears to be transitioning over time toward systems with debit calling options for state prisons.

Alternative Carriers

The discussion above focuses on use of a debit system administered by a facility’s designated inmate calling service provider as a means of addressing billing costs and improving overall efficiency. Quite different issues are presented by proposals to introduce a choice of carriers into the inmate facility. The Coalition has not identified any cost-effective means to provide a choice of carriers to inmates without creating serious threats to a facility’s security.

Four possible approaches to “carrier choice” have been suggested: (1) allowing inmates to use commercial calling card and collect calling platforms (800-COLLECT, 800-CALL-ATT) and pre-paid calling cards, and (2) allowing inmates to direct-dial their calls, and (3) allowing inmates to place calls to “personal” 800 numbers that are billed to the called party. (4) Allow two competitive inmate calling service providers to provide service at the same time. While these alternatives may seem viable and simple on the surface, there are fundamental problems posed in the areas of security and practicality for the inmate facility.

Commercial collect and pre-paid platforms. Commercial service platforms include such recognizable products as (800) COLLECT and (800) CALL-ATT and pre-paid calling cards. This type of calling would pose great security challenges to inmate facilities.

The nature of these types of alternate carrier calling requires the caller to first dial a carrier or pre-paid card provider’s access number (such as 800-COLLECT). Then in the case of the alternative collect products, the caller is then prompted to enter in the number that they wish to call, normally with the option of placing the call as collect, calling-card, or third-party-billed. In the case of pre-paid cards, the caller would call the 800 number for the provider, enter in the PIN number printed on the card, then enter the number they wish to dial. These options would result in security challenges in that the inmate calling system has no control over the number that the inmate is calling. Since the inmate must dial the access number and then enter the calling number into the external carrier’s network, the inmate telephone system is incapable of screening the called number through

the blocked number database. The blocked number database contains numbers that include the administrative telephone numbers of the facility, the home numbers of staff, judges, witnesses, etc. as well as numbers that have been requested to be blocked by their owners due to harassment by inmates. If inmates are allowed what amounts to open access to the public network, all security measures will be circumvented. Also, all of the alternative collect access products allow access to a live operator, which also opens up an even greater opportunity for “social engineering” resulting in harassment and fraud.

In addition, for commercial collect calling services the potential for fraud is tremendous. Since the inmate phone system would be incapable of tracking and screening the number called (for the reasons stated above), the facility would not be able to place limitations on the number of calls placed to a particular number. Also, many inmate calling service providers and facilities produce reports that track calls from multiple cells to the same number. This type of activity is often indicative of criminal or fraudulent activity. The potential for fraudulent activity would also be greatly increased because calls placed on alternative carriers would not be “branded” as being from a correctional facility. Inmates will often place calls to random numbers, and the only way for a called party to know that a call is from a correctional facility is the notice on the accept message stating that the call is from such a facility.

Direct Dial Calling

Direct-dial calling for inmates would involve the inmate placing calls without the involvement of an automated operator, with the call being dialed directly onto the public network. Since long-distance (and probably local usage) charges may be incurred by the provider for the carriage of such calls, there would need to be a form of billing involved for the inmate. This would require that the provider install a “debit system”, which requires sophisticated on-premise computer equipment that will allow the tracking and billing of these calls. As discussed in the first part of this paper, such a debit system requires a great deal of maintenance from facility staff, since inmate accounts are set up and maintained individually. All of the expenses involved in a debit system, as well as the costs of security measures and fraud prevention, would have to be included in the price of any direct dial call. Direct dial calling would only be practical with a debit system.

Personal 800 Numbers

The personal 800 number option would involve friends and family of inmates setting up individual toll-free numbers to their homes for use by an inmate. The carrier of the 800 number would bill the family member or friend for calls. Implementation and management of this calling alternative would be difficult and costly, if not impossible in a jail environment.

Personal 800 number calling (as well as other types of calling) would require the use of “allowed-call lists” with PINs (Personal Identification Numbers). Since the issue of security is paramount at all inmate facilities, all 800 numbers (and all other “toll-free” exchanges) are normally “blocked” by an inmate telephone system. Toll-free numbers are almost always associated with a business, and businesses normally do not want calls from inmates, especially when they are being billed for the toll-free number usage. This fact would require that the inmate telephone system block all toll-free exchanges by default. Then, individual “personal” toll-free numbers would need to be entered into the inmate’s allowed-call list under their PIN number as an exception.

The costs to set up and maintain a personal 800 number system would have to be charged back to the inmate or the called party in some way. All the costs to maintain the security measures would also have to be billed to the inmate or called party. At this time the industry does not have a feasible way to bill these charges back to the inmate unless there is an existing debit system.

Personal 800 numbers are generally not feasible for jails because of the short average inmate stay that is inherent in the nature of the jail environment. The majority of the inmate population in a County Jail is being held awaiting arraignment and/or a bail hearing. This results in an average stay of less than 30 days. These facts are in direct contrast to the situation in state and Federal prisons, where the average stay is measured in years, not hours or days.

Most county jail facilities do NOT utilize allowed-call lists and PINs. With such a system, the facility staff must enter inmate information upon booking, including the creation and assignment of the PIN number, and the listing, verification and entering of the allowed-call list numbers. This process would be extremely time-consuming to the already undermanned jail facility staff. The implementation of such a system would most likely require that the facility hire additional staff.

Competing Inmate Calling Service Providers.

On the surface, the option of having two different inmate calling service providers would appear to provide the inmates and their families the advantage of a choice of carriers that hopefully would compete for business by lowering the price of calls. This option presents several challenges for the facility and the inmate calling service providers. First, inmate calling service providers currently compete based on the service features they have incorporated in their equipment. Competition has motivated providers to invest hundreds of thousands of dollars in research and development to manufacture more and more sophisticated equipment with enhanced features. Assuming providers would bid for business based on an investment to provide service to the entire facility with a prospect of only getting half of the business, the cost of equipment would be doubled on every call. Second, the necessary sharing of information between providers, in as close to real time as

possible, would create an administrative nightmare. Regrettably, a portion of all inmate populations work every day to defeat the security features and fraud controls. The problem is hard enough to contain when one provider is looking at all the facts and has control of all the calls. If a facility moved to a two-carrier environment maintaining these security and fraud controls would become impractical if not impossible.

It might be argued that these difficulties would be overcome if the facility procured one set of equipment and required both carriers to utilize the same equipment. However, most major carriers today utilize different equipment and it would be highly unlikely that any provider would choose to bid on providing service unless they could use equipment which they were certified to use and with which they had extensive experience. All internal systems, software, and operation center support are designed to work with the provider's chosen equipment. For this reason alone no carrier would be willing to expose their company to uncontrollable fraud because of an inability to interface their operations center support with unfamiliar equipment.

Another serious difficulty with a dual-carrier approach is that each provider would be vulnerable to significant losses based on the action or inaction of the other carrier. For example, suppose Carrier One has excellent fraud control measures including early detection, billing, and management of Code 50 Rejects. Because of its superior program, Carrier One is able to discount calls to inmate families by 25%. Carrier Two does not have adequate early detection of Code 50 Rejects. The inmates advise their friends and family members to subscribe to local service through CLEC resellers. Although the calls with Carrier Two are higher priced, the inmates choose to use Carrier Two because it allows calls to CLECs. Because Carrier Two cannot bill these calls, the inmates' friends and families get "free" calls for a month or two before they are detected. The inmates' friends and families then change their numbers or move to another CLEC. Both inmate calling service providers lose. Carrier One loses because it made a significant investment in equipment and resources to provide quality service at a fair discounted price, yet its call revenue is significantly suppressed because a high percentage of inmates chose Carrier Two. Carrier Two loses because it has not yet developed internal controls for early detection, billing and management of Code 50 Reject calls.